

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership

Including Professional Corporations
NEIL A.F. POPOVIĆ, Cal. Bar No. 132403
ANNA S. McLEAN, Cal. Bar No. 142233
TENAYA RODEWALD, Cal. Bar No. 248563
MUKUND H. SHARMA, Cal. Bar No. 249125
LIÊN H. PAYNE, Cal. Bar No. 291569
JOY O. SIU, Cal. Bar No. 307610
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Telephone: 415.434.9100
Facsimile: 415.434.3947
Email: npopovic@sheppardmullin.com
amclean@sheppardmullin.com
msharma@sheppardmullin.com
rodewald@sheppardmullin.com
lpayne@sheppardmullin.com
jsiu@sheppardmullin.com

Attorneys for Defendant,
SEAGATE TECHNOLOGY LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

IN RE SEAGATE TECHNOLOGY LLC
LITIGATION

CONSOLIDATED ACTION

Case No. 3:16-cv-00523-JCS

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF SEAGATE'S NOTICE OF
MOTION AND MOTION TO STRIKE
AND FOR JUDGMENT ON THE
PLEADINGS**

Date: June 23, 2017
Time: 9:30 a.m.
Place: Courtroom G
Judge: Hon. Joseph C. Spero

Second Consolidated Amended Complaint
filed: July 11, 2016

REQUEST FOR JUDICIAL NOTICE

Pursuant to Federal Rule of Evidence 201, Defendant Seagate Technology LLC (“Seagate”) hereby requests that the Court take judicial notice of the following item in connection with Seagate’s Motions to Dismiss:

1. How long do disk drives last?, Backblaze (Nov. 12, 2013), <https://www.backblaze.com/blog/how-long-do-disk-driveslast/> referenced in Plaintiffs’ Second Consolidated Amended Complaint (“SCAC,” Dkt. 62) at p. 14, fn 5 and p. 15, fns. 6 and 7, referenced in Paragraphs 85, 87 and 88 of the SCAC, and attached hereto as **Exhibit A**.

A court may take judicial notice of facts outside the pleadings on a motion to dismiss or for judgment on the pleadings. *Mack v. South Bay Beer Distribs.*, 798 F.2d 1279, 1282 (9th Cir. 1986) (abrogated on other grounds).

The Court should take judicial notice of Exhibit A because it is a document referenced in the SCAC. *Knievel v. ESPN*, 393 F.3d 1068, 1076 (9th Cir. 2005) (under the “incorporation by reference” doctrine, courts may take judicial notice of documents “whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the [plaintiff’s] pleading” (citing *In re Silicon Graphics Inc. Sec. Litig.*, 183 F.3d 970, 986 (9th Cir. 2002).) Accordingly, the Court should take judicial notice of the document attached hereto as Exhibit A.

Dated: May 26, 2017

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By

/s/ Anna S. McLean

ANNA S. McLEAN

Attorneys for Defendant
SEAGATE TECHNOLOGY LLC